

Message Text

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ACTION EA-09

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FM AMEMBASSY MANILA

TO SECSTATE WASHDC 7318

C O N F I D E N T I A L SECTION 1 OF 2 MANILA 10121

E.O. 11652: GDS

TAGS: SHUM, RP

SUBJECT: AMNESTY INTERNATIONAL REPORT ON HUMAN RIGHTS IN
THE PHILIPPINES

REF: MANILA 9243

BEGIN SUMMARY: EMBASSY HAS OBTAINED COPY OF DRAFT AMNESTY INTERNATIONAL (AI) REPORT. IT CRITICIZES GOP FOR DETAINEE MALTREATMENT AND RECOMMENDS PRESIDENTIAL AMNESTY FOR ALL WHO HAVE BEEN HELD WITHOUT CHARGES OR BAIL MORE THAN ONE YEAR. IN ADDITION, SPECIFIC RECOMMENDATIONS, AI REPORT ANALYZES RULE OF LAW UNDER MARTIAL LAW. IT CONCLUDES THAT DESPITE LAUDABLE FRAMEWORK FOR PROTECTION OF HUMAN RIGHTS, HUMAN RIGHTS QUARANTEES ARE "MENAINGLESS NULLITIES FOR PERSONS DETAINED UNDER SUSPICION FOR POLITICAL OFFENSES." AI REPORT DUPLICATES MUCH OF WHAT APPEARED IN AMRSP REPORT (SEE MANILA 5973). SINCE IT COMES FROM INTERNATIONAL ORGANIZATION, HOWEVER, IT WILL PRESUMABLY CARRY MORE WEIGHT AND WILL CERTAINLY BE EXPLOITED BY CRITICS OF THE REGIME WHEN IT IS MADE PUBLIC. END SUMMARY.

1. DRAFT AI REPORT CONSISTS OF INTRODUCTION AND GENERAL COMMENTS AND RECOMMENDATIONS ON POLITICAL PRISONERS IN THE PHILIPPINES (15 PAGES). THIS IS FOLLOWED BY

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INTERVIEWS WITH PRISONERS AND LIST OF INDIVIDUALS INVOLVED IN TORTURE (64 PAGES). FINAL SECTION IS GENERAL EXAMINATION OF MARTIAL LAW AND RULE OF LAW. AI REPORT NOTES THAT TEAM INTERVIEWED 105 PRISONERS. OF THOSE INTERVIEWED, 68 HAD BEEN SUBJECTED TO "BRUTAL TREATMENT" WHICH USUALLY TOOK PLACE UNDER INTERROGATION FOLLOWING ARREST. AI TEAM CONCLUDES THAT "TORTURE WAS USED FREQUENTLY AND WITH EXTREME CRUELTY OFTEN OVER LONG PERIODS." "TORTURE WAS USED SYSTEMATICALLY AGAINST THOSE WHO HAD NO OUTSIDE INFLUENCE." "TORTURE OF WOMEN WAS LESS WIDESPREAD BUT INTIMIDATION INVOLVING THREATS OF SEXUAL ASSAULT WAS COMMONPLACE."

2. RECOMMENDATIONS INCLUDE FOLLOWING:

(1) GOP SHOULD INSTITUTE IMMEDIATE AND FULL INQUIRIES INTO CASES OF ALL INDIVIDUALS LISTED IN REPORT AS HAVING BEEN TORTURED;

(2) GOP SHOULD INSTITUTE FULL INQUIRIES INTO RECORDS AND ACTIVITIES OF 85 OFFICERS LISTED IN THE REPORT AS HAVING EMPLOYED TORTURE. AI COMMENTS, "CONCLUSION IS UNAVOIDABLE THAT TORTURE OF PRISONERS WAS PART OF GENERAL APPROACH TO TREATMENT OF SUSPECTS WITH INTENTION OF INTIMIDATING ALL THOSE ARRESTED ON SUSPICION OF HAVING COMMITTED POLITICAL OFFENSES;"

(3) ALL PRISONERS LISTED IN REPORT SHOULD BE RELEASED IMMEDIATELY ON BAIL PENDING TRIAL. AI NOTES IT HAD ASKED AFP JUDGE ADVOCATE FOR TRANSCRIPTS OF ALL PROCEEDINGS AGAINST POLITICAL OFFENDERS CONCLUDED SINCE MARTIAL LAW. NONE WERE MADE AVAILABLE. AI BELIEVES IT IS POSSIBLE "THAT NOT A SINGLE POLITICAL PRISONER UNDER MARTIAL LAW HAS BEEN PUT TO TRIAL THAT HAS BEEN CONCLUDED;"

(4) IN EVERY TRIAL WHERE A NUMBER OF DEFENDANTS COMPLAIN THEY HAVE BEEN TORTURED, ALL OTHER DEFENDANTS SHOULD BE RELEASED ON BAIL PENDING FULL AND OPEN INVESTIGATION OF TORTURE CHARGES;
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(5) PRISONERS HELD ON POLITICAL CHARGES SHOULD BE TRIED IN CIVIL COURTS AND NOT BY MILITARY TRIBUNALS. ALL INDIVIDUALS LISTED IN REPORT ARE TRIABLE BY MILITARY COMMISSIONS. AI RECOMMENDS THAT APPEALS GO THROUGH NORMAL JUDICIAL APPELLATE PROCESS AND NOT, AS AT PRESENT, FROM MILITARY COMMISSIONS TO SECRETARY OF NATIONAL DEFENSE;

(6) GOP SHOULD COMPLY WITH UN STANDARD
MINIMUM RULES FOR TREATMENT OF PRISONERS AND NOTIFY
FAMILIES OF DETAINEES WITHIN 72 HOURS OF ARREST. PRISONERS
SHOULD HAVE IMMEDIATE AND FREE ACCESS TO THEIR LAWYERS;

(7) WRIT OF HABEAS CORPUS SHOULD BE REESTABLISHED
WITHOUT DELAY SINCE THIS IS MOST EFFECTIVE SAFEGUARD
FOR CIVIL LIBERTY OF THE CITIZEN;

(8) ALL UNITS INVOLVED IN ARREST AND INTERROGATION
OF PRISONERS SHOULD KEEP FULL RECORDS OF THE PERIODS
WHEN PRISONERS ARE IN THEIR CARE. USE OF "SAFE HOUSES"
SHOULD BE DISCONTINUED;

(9) GOP SHOULD ADOPT AND PUBLISH CODE OF TREATMENT
OF POLITICAL PRISONERS WHICH PROVIDES COMPENSATION FOR
THOSE WHO HAVE BEEN TORTURED;

(10) ALL PRISONERS HELD FOR MORE THAN ONE YEAR
WITHOUT CHARGE OR TRIAL SHOULD BE GRANTED PRESIDENTIAL
AMNESTY. THE GOP SHOULD INSTITUTE IMMEDIATE TRIAL
PROCEEDINGS AGAINST THOSE PRISONERS WHO ARE THOUGHT TO
BE GUILTY OF CRIMINAL ACTS;

(11) GENERAL PRESIDENTIAL AMNESTY SHOULD BE GRANTED
WITH MINIMUM DELAY;

(12) GOP SHOULD SEEK COOPERATION OF UNHCR IN FINDING WAYS
TO END EXTENDED DETENTION OF CERTAIN DEPORTATION CASES
(MOSTLY ETHNIC CHINESE);

(13) ALL WOMEN IN DETENTION WHO HAVE YOUNG CHILDREN
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SHOULD BE RELEASED, ESPECIALLY WHEN BOTH HUSBAND AND
WIFE ARE DETAINED AND CHILDREN MUST ALSO BE KEPT IN
PRISON.

AFTER SPECIFIC RECOMMENDATIONS AGAINST POLITICAL PRISONERS
BEING KEPT WITH ORDINARY CRIMINAL PRISONERS AND IN THE
CASE OF PRISONERS BELONGING TO THE HILAO FAMILY, AI URGES
GOP TO INSURE FULL IMPLEMENTATION OF RESOLUTION 3452
(XXX) OF UNGA OF 9 DECEMBER 1975 ADOPTING DECLARATION

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FM AMEMBASSY MANILA

TO SECSTATE WASHDC 7319

C O N F I D E N T I A L SECTION 2 OF 2 MANILA 10121

ON THE PROTECTION OF ALL PERSONS FROM BEING SUBJECTED
TO TORTURE AND OTHER INHUMAN OR DEGRADING TREATMENT
OR PUNISHMENT.

3. WHILE EXPRESSING APPRECIATION FOR COOPERATION OF
GOP, AI NOTES IT HAS NOT RPT NOT RECEIVED LIST OF ALL
PRISONERS DETAINED UNDER MARTIAL LAW TOGETHER WITH
DETAILS OF CHARGES AGAINST EACH OF THEM. IT REQUESTS
THAT THIS LIST BE MADE AVAILABLE. THE BODY OF THE
REPORT CONSISTS OF INTERVIEWS WITH DETAINEES AT VARIOUS
DETENTION CENTERS IN METRO MANILA AREA MOST OF WHICH
DETAIL MALTREATMENT AT HANDS OF AUTHORITIES. AI
REPORTS ON VISIT TO FORT BONIFACIO AND BRIEF DISCUSSIONS
WITH SENATOR AQUINO (WHO SAID HE HAD NOT BEEN TORTURED
BUT MEMBERS OF HIS STAFF HAD) AS WELL AS AMCIT LEHMAN,
WHO NOTED "IT WAS REALLY HARD AT FIRST, BUT IT IS A LOT
BETTER NOW."

4. FINAL SECTION OF AI REPORT IS DISCUSSION OF MARTIAL
LAW AND RULE OF LAW. AI REPORT INDICATES THAT WHILE
GOP HAS "LAUDABLE FRAMEWORK FOR PROTECTION OF HUMAN
RIGHTS" EVIDENCE IS OVERWHELMING THAT PROMISES AND
GUARANTEES "WERE MEANINGLESS NULLITIES FOR PERSONS
DETAINED UNDER SUSPICION FOR POLITICAL OFFENSES."
EVIDENCE ESTABLISHES "A CONSISTENT PATTERN OF GROSS
VIOLATIONS OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS
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INCLUDING SYSTEMATIC AND SEVERE TORTURE AND CRUEL, INHUMAN AND DEGRADING TREATMENT DURING INTERROGATION PROCESS." AI CONCLUDES THAT THE "ONLY RULE OF LAW IN THE PHILIPPINES UNDER MARTIAL LAW HAS BEEN THE UNCHECKED POWER OF THE EXECUTIVE BRANCH AND THE MILITARY." ONLY PART OF THE CONSTITUTION IN EFFECT HAS BEEN THE TRANSITORY PROVISIONS CLAUSE WHICH GIVES THE PRESIDENT "VIRTUALLY UNLIMITED POWER TO RULE BY DECREE AND IN EFFECT NULLIFIES BASIC LIBERTY GUARANTEED TO ALL PERSONS." REPORT NOTED FAILURE OF JUDICIAL SYSTEM WHICH HAS BEEN UNABLE TO TAKE EFFECTIVE ACTION AGAINST MASSIVE VIOLATIONS OF HUMAN RIGHTS. AI CRITICIZES GOP FOR STRIPPING COURTS OF THEIR JURISDICTION AND INDEPENDENCE.

5. AMRSP DETAINEES COMMITTEE MEMBER TOLD EMBOFF JULY 3 THAT IT HAS BEEN ENJOINED BY AI TEAM MEMBER HUANG NOT TO RELEASE REPORT UNTIL AUGUST. DESPITE AP LEAK, SHE FEELS SHE MUST HONOR THIS STRICTURE. THUS, REPORT COMMITTEE RECEIVED WILL NOT BE CIRCULATED NOR APPEAR IN "SIGNS OF THE TIMES" UNTIL AUGUST. SHE SAID PROTESTANT GROUP LED BY SENATOR SALONGA HAS COPY OF REPORT WHICH IS CIRCULATING. THEY HAVE AGREED NOT TO PUBLISH IT BEFORE AUGUST. SOURCE WAS CONTEMPTUOUS OF GOVERNMENT'S "TRANSPARENT EFFORT" TO TAKE STING OUT OF REPORT BY ANNOUNCING DETAINEE REFORMS (SEE REFTEL). SHE CLAIMED TORTURE WAS STILL GOING ON CITING INCIDENTS AT BICUTAN DETAINEE CENTER (SEE SEPTTEL).

6. COMMENT: AS INDICATED IN REFTEL, AI REPORT WAS FORESHADOWED BY AMRSP REPORT ON DETAINEES (SEE MANILA 5973). INDEED, AMRSP DETAINEES COMMITTEE IS SOMEWHAT CONCERNED THAT SO MANY OF THE CASES CITED IN THEIR REPORT AND AI REPORT ARE SIMILAR. THIS IS HARDLY SURPRISING SINCE AI RELIED ON DETAINEES COMMITTEE FOR LISTS OF INDIVIDUALS TO INTERVIEW. SINCE INITIAL FLURRY OF ACTIVITY AFTER AI REPORT LEAKED, THERE HAS BEEN NO FURTHER GOVERNMENT REACTION. AI REPORT IS DAMNING INDICTMENT OF GOP'S HANDLING OF DETAINEES, ESPECIALLY DURING THE "TACTICAL INTERROGATION" STATE. AI'S CONFIDENTIAL

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COMPREHENSIVE TREATMENT OF RULE OF LAW IN MARTIAL LAW SOCIETY IS STRONGLY CRITICAL AND HITS AT HEART OF THE CURRENT MARTIAL LAW SET UP. AI REPORT, WHICH COMES FROM RESPECTED INTERNATIONAL ORGANIZATION, WILL PRESUMABLY CARRY MORE CREDIBILITY THAN LOCAL AMRSP PRODUCT AND SHOULD BE GRIST FOR MILLS OF THOSE CRITICAL OF MARCOS REGIME. REPORT WAS POUCHED EA/PHL JULY 9.

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